

REDACTED - FOR PUBLIC INSPECTION

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VIA HAND DELIVERY AND ECFS

EX PARTE

June 30, 2008

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Suite 5-C327
Washington, DC 20554

**Re: Petition of the Qwest Corporation for Forbearance
Pursuant to 47 U.S.C. § 160(c) in the Denver,
Minneapolis-St. Paul, Phoenix, and Seattle Metropolitan
Statistical Areas, WC Docket No. 07-97**

Dear Ms. Dortch:

In accordance with the *Second Protective Order* in the above-referenced proceeding,¹ enclosed for filing in the above-referenced proceeding are two copies of the REDACTED version of the attached document. This filing is also being submitted in the Commission's Electronic Comment Filing System.

Under separate cover and in accordance with the *Second Protective Order*, Highly Confidential copies of the attached document are being submitted to you along with Gary Remondino, Jeremy Miller, and Denise Coca of the Wireline Competition Bureau.

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¹ *Petition of the Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Denver, Minneapolis-St. Paul, Phoenix, and Seattle Metropolitan Statistical Areas, WC Docket No. 07-97, Second Protective Order, DA 07-2294, ¶ 14 (WCB rel. Jun. 1, 2007) ("Second Protective Order").*

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Marlene H. Dortch, Secretary
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A date stamp and return copy of this filing is enclosed as well. Please date stamp and return it to the courier. Should you have any questions about this filing, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to be 'NT Vu', written over the word 'Sincerely,'.

Nguyen T. Vu

Enclosure

cc: (all via email)

Amy Bender
Scott Deutchman
Scott Bergmann
John Hunter
Chris Moore
Dana Shaffer
Julie Veach
Marcus Maher
Tim Stelzig
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June 30, 2008

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EX PARTE

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Portals
Washington, DC 20554

Re: Petitions of Qwest Corp. for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Denver, Minneapolis-St. Paul, Phoenix, and Seattle Metropolitan Statistical Areas, WC Docket No. 07-97.

Dear Secretary Dortch:

On April 23, 2008, PAETEC Communications, Inc. and its operating affiliates ("PAETEC"), through counsel, co-sponsored the filing of building connectivity data in the above-referenced proceeding. The data showed for each of the four Metropolitan Statistical Areas at issue in this docket (the "MSAs"): (1) the total number of commercial buildings; (2) the total number of commercial buildings served by facilities-based competitive local exchange carriers ("CLECs"); (3) total demand, by DS0; and (4) total demand, by DS0s, that could be addressed by facilities-based CLECs.¹ The filed data compiled by GeoResults show that CLECs, in the aggregate, connect with their own facilities to a miniscule number of commercial buildings in the four MSAs. The GeoResults data also demonstrate that facilities-based CLECs, in the aggregate, serve a very small portion of the total addressable demand in those geographic markets.

On May 20, 2008, XO Communications, Inc. ("XO") supplemented the record by providing XO-specific data with respect to the four MSAs on a confidential basis.² Since this type of CLEC-specific data is highly relevant to whether Qwest in fact faces any competition for last mile access competition, PAETEC also is providing on a confidential basis its company-specific lit commercial building and addressable demand information for each of the four MSAs.

Consistent with the prior XO filing, Table 1 shows PAETEC's current facilities-based lit commercial building market penetration.

¹ See Letter from Brad E. Mutschelknaus, *et al.* to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 07-97 (filed Apr. 23, 2008) ("*April 23rd Ex Parte*").

² See Letter from Genevieve Morelli to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 07-97 (filed May 20, 2008) ("*XO's May 20 Ex Parte*").

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[BEGIN HIGHLY CONFIDENTIAL]

MSA	Number of Buildings per GeoResults ³	Number of PAETEC Lit Buildings ⁴	% of PAETEC Lit Buildings

[END HIGHLY CONFIDENTIAL]

Table 2 below shows PAETEC-specific addressable commercial building information. The table provides data for buildings within 500 and 1,000 feet of PAETEC's lit fiber in each of the four MSAs.

[BEGIN HIGHLY CONFIDENTIAL]

MSA	Number of Buildings per GeoResults	% of Commercial Buildings w/in 500' of PAETEC Lit Fiber	% of Commercial Buildings w/in 1000' of PAETEC Lit Fiber

[END HIGHLY CONFIDENTIAL]

The percentages in Table 2 indicate the maximum theoretical reach of PAETEC's lit fiber. However, as XO properly noted in its May 20, 2008 *Ex Parte*, these figures significantly overstate the number of commercial buildings to which it is economically or physically viable to connect to PAETEC lit fiber to provide self-provisioned last mile access to end users. Whether or not PAETEC could and/or would build lateral runs into any of the unlit commercial buildings would depend on adequate demand for services within a particular unlit building and PAETEC's ability to secure necessary rights-of-way and access rights with respect to that building. In this regard, for example:

³ PAETEC also has commercial building counts from another third party source that reports much higher commercial building counts in each of the four MSAs, which accordingly, would lower the resulting penetration of PAETEC lit buildings and the addressable building percentages. For example, the other database reports there are **[BEGIN HIGHLY CONFIDENTIAL]** **[END HIGHLY CONFIDENTIAL]** commercial buildings in Denver, Minneapolis-St. Paul, Phoenix and Seattle, respectively.

⁴ The PAETEC lit building figure does not include POP sites or central office facilities in which PAETEC has lit fiber.

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- at least two CLECs stated with respect to this forbearance matter (and similar record statements are contained in the Verizon six cities forbearance docket) that they would not build a lateral fiber run into a commercial building unless there was a minimum of 2 DS3s worth of demand that was contractually committed for a minimum period of years;⁵ and
- PAETEC currently does not have, and before proceeding to light any particular addressable building would need to obtain, the requisite rights-of-way and other access rights for each of the addressable unlit buildings identified above.

As a result, the addressable building figures shown in Table 2 above represent, at best, a theoretical maximum reach of PAETEC's lit fiber in these four MSAs that does not take into account the actual, significant financial challenges of lighting any particular addressable building. Indeed, it is a given that these very same economic considerations have heavily influenced the glacial pace of the expansion of lit fiber building connectivity in the Omaha market. In this respect, data suggests that it will take another 130+ years at the current rate of lit building expansion before the cable overbuilder will reach the existing number of Omaha's commercial buildings as reported by GeoResults.

One additional data set further corroborates the GeoResults data showing that Qwest controls last mile access in, at a minimum, 97% of the commercial buildings in virtually every wire center in these four MSAs. PAETEC field technicians recorded lit fiber connections each time they visited an end user commercial premise since July 2007 in any of the four MSAs. Of the total 833 premises surveyed since July 2007, Qwest was the sole provider of building access 808 times; only two buildings had lit fiber identified as belonging to another service provider. 23 buildings had a second cable whose ownership was unclear. Assuming all unidentified cables belonged to a service provider other than Qwest, the PAETEC field technician survey results in a comparable percentage (97%) of commercial buildings in these four markets in which Qwest has been identified as the sole provider of last mile access.

In summary, the PAETEC-specific data set forth herein support the conclusions drawn from the industry-wide GeoResults data, as supplemented by the XO specific-data, that facilities-based CLECs serve an extremely small percentage of commercial buildings in the Denver, Minneapolis-St. Paul, Phoenix, and Seattle MSAs.

Respectfully submitted,

/s/ William A. Haas

William A. Haas

Vice President – Regulatory and Public Policy

⁵ For example, XO's May 20, 2008 *Ex Parte* states that it will "consider" installing a lateral into a building unless there is a minimum of 3DS3s worth of demand under a term commitment in the building.